

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DOUGLAS ROY SYMMES, JR.,)
)
 Petitioner,)
)
 v.) 1:22-cv-235
)
STATE OF NORTH CAROLINA,)
)
 Respondent.)

ORDER

This matter is before the court for review of the Recommendation ("Recommendation") filed on August 16, 2023, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 20.) In the Recommendation, the Magistrate Judge recommends that Petitioner's first and second claims for relief are time-barred under the applicable statute of limitations, therefore, should be dismissed, that Petitioner's third and fourth claims for relief are not cognizable claims, they were filed out of time, and further that this action should be dismissed. The Recommendation was served on the Petitioner on August 16, 2023. (Doc. 21.) Petitioner timely filed Objections. (Doc. 22.)

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is

made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the Recommendation as well as Petitioner's Objections and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 20), is **ADOPTED**. **IT IS FURTHER ORDERED** that Respondent's Motion to Dismiss, (Doc. 13), is **GRANTED**, that Petitioner's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, (Doc. 2), is **DENIED**, and that this action is **DISMISSED**. The court further finds there is no substantial showing of the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, therefore a certificate of appealability is not issued.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 12th day of September, 2023.


United States District Judge